

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOHN PAUL JONES,

Plaintiff,

v.

No. 1:22-cv-00413-DHU-SMV

JANICE MADRID,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

Plaintiff, *who is proceeding pro se*, sent a six-page letter addressed to Chief United States District Judge William P. Johnson, along with 20 pages of other documents, which was filed as a "Complaint." *See* Doc. 1, filed May 31, 2022. The Complaint states that Defendant Janice Madrid "continues to deny me my First Amendment (as well as other constitutional rights)." Complaint at 1.

Plaintiff did not pay the \$402.00 fee¹ for instituting a civil action and did not file an "Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)" ("Application"). United States Magistrate Judge Stephan M. Vidmar ordered Plaintiff to either pay the \$402.00 fee or file an Application and notified Plaintiff that failure to timely pay the filing fee may result in dismissal of this case. *See* Order to Cure Deficiency and Order for Amended Complaint, Doc. 3, filed June 15, 2022 ("Order").

Judge Vidmar notified Plaintiff that the Complaint failed to state a claim upon which relief can be granted against Defendant Madrid because it did not state with particularity what Defendant

¹ The fee for instituting any civil action, suit or proceeding is comprised of a \$350.00 filing fee, *see* 28 U.S.C. §1914, and a \$52.00 administrative fee.

Madrid did to Plaintiff, when Defendant Madrid committed those actions, how those actions harmed Plaintiff and what specific right Plaintiff believes Defendant Madrid violated. *See* Order at 1-2 (quoting *Nasious v. Two Unknown B.I.C.E. Agents, at Arapahoe County Justice Center*, 492 F.3d 1158, 1163 (10th Cir. 2007) (“[T]o state a claim in federal court, a complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant’s action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated”)).

Judge Vidmar also notified Plaintiff that it appears the Court should dismiss this case because the Complaint does not show that Court has jurisdiction over this matter. *See* Order at 2-3 (noting that the Complaint does not contain a short and plain statement of the grounds for the court's jurisdiction as required by Fed. R. Civ. P. 8(a)(1)).

Judge Vidmar ordered Plaintiff to file an amended complaint and notified Plaintiff that failure to timely file an amended complaint may result in dismissal of this case.

The Court dismisses this case without prejudice because Plaintiff did not pay the filing fee, file an application to proceed in forma pauperis, file an amended complaint or otherwise respond to Judge Vidmar's Order by the July 7, 2022, deadline.

Plaintiff also requested that the Court consolidate this case with Plaintiff's other pending case in this Court, *Jones v. Madrid*, No. 1:22-cv-00414-KK ("*Jones II*"). *See* Doc. 5, filed June 30, 2022 ("*Request*"). Plaintiff requests that this case be consolidated with *Jones II* because he paid the filing fee in *Jones II* and "would obviously prefer not to pay that fee twice." *Request* at 2.

The Court denies Plaintiff's request to consolidate this case with *Jones II* because this case cannot proceed until Plaintiff either: (i) pays the \$402.00 fee for instituting a civil action; or (ii) is authorized to proceed in forma pauperis pursuant to 28 U.S.C. §1915. *See* 28 U.S.C. §1914(a) ("The clerk of each district court shall require the parties instituting any civil action ... to pay a

filing fee"); 28 U.S.C. §1915(a)(1) ("any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding ... without prepayment of fees ... by a person who submits an affidavit that includes a statement of all assets such prisoner possess that the person is unable to pay such fees").

IT IS ORDERED that:

- (i) This case is **DISMISSED without prejudice**.
- (ii) Plaintiff's Request to Consolidate "0413" and "0414," Doc. 5, filed June 30, 2022, is **DENIED**.


UNITED STATES DISTRICT JUDGE